

RAS 8841

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DOCKETED
USNRC

November 11, 2004

November 11, 2004 (5:00pm)

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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of Entergy Nuclear Vermont Yankee LLC and
Entergy Nuclear Operations, Inc. (Vermont Yankee Nuclear
Power Station) -- Docket No. 50-271-OLA

Dear Mr. Block:

This is in response to your letter to me dated November 10, 2004 in connection with my client's voluntarily providing the New England Coalition ("NEC") with copies of docketed information regarding Vermont Yankee's Extended Power Uprate ("EPU") application (EPU Supplements 15 through 20 covering September 23, 2004, to the present) which may be currently unavailable to NEC due to the ADAMS access restrictions.

Your letter terms Entergy's voluntary undertaking "wholly inadequate," and goes on to request that Entergy provide "all EPU-related information that would be normally be available as public records in the public document collection were it not for the closing of ADAMS" and, in addition, "all documentation of EPU related applications for fuel changes and alternate source term, all requests for exemptions, technical specification changes, exceptions, notices under §50.59, and all other correspondence or documents provided to NRC that are in any way related to or support of the proposed Extended Power Uprate." Your letter indicates that NEC needs these materials in order to "adequately prosecute its case."

At the time it prepared its August 30, 2004 request for a hearing, NEC had full access to the documents in ADAMS. Presumably, at that time NEC examined the public record to the extent needed to identify the contentions it wished to raise and obtain supporting documentation. NEC's request for hearing is currently under review by the Licensing Board. Until the Board rules on the NEC's request, there is nothing more that NEC is required to do to "adequately prosecute its case." If NEC is admitted as a party to this proceeding, it will be able to obtain discovery in accordance with NRC's rules as to those of its contentions that are admitted, including all documents within Entergy's control that are relevant to the contentions and the NRC's hearing file as described in 10 CFR 2.336(b).

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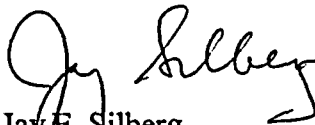
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It may well be that, once access to ADAMS is restored, NEC may seek to raise late-filed contentions based on information that was not available to it because of the ADAMS shutdown. In that case, NEC can invoke the lack of access to ADAMS to meet the requirements in 10 C.F.R. § 2. 309(f)(2) for contentions filed after the initial filing. However, NEC has no legal basis to demand the kind of document production called for by your letter. That said, Entergy intends to continue to provide NEC with any other non-proprietary EPU filings that we may make prior to the resumption of ADAMS accessibility.

Sincerely,



Jay E. Silberg
Counsel for Entergy Nuclear Vermont Yankee,
LLC and Entergy Nuclear Operations, Inc.

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Document #: 1443430 v.1

VERMONT YANKEE OLA SERVICE LIST (Docket No. 04-832-02-OLA)

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